

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID PRIEST,

Plaintiff,

v.

BENTLEY, et al.,

Defendants.

No. 2: 21-cv-0058 TLN KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court are plaintiff's motions for sanctions and second motion for an extension of time to conduct discovery. (ECF Nos. 39, 40.) For the reasons stated herein, plaintiff's motions are denied.

Plaintiff's Motion for Sanctions

On December 7, 2021, the undersigned granted in part and denied in part plaintiff's motion to compel. (ECF No. 37.) In relevant part, the undersigned ordered defendant Kuersten to provide plaintiff with further responses to interrogatories nos. 2 and 4 within thirty days of the date of the order. (Id.)

///

///

///

1 In the pending motion, plaintiff appears to argue that defendants failed to comply with the
2 December 7, 2021 order requiring them to provide further responses to interrogatories nos. 2 and
3 4. (ECF No. 40.) Plaintiff also appears to argue that defendants failed to comply with the order
4 directing defendants to provide plaintiff with documents in response to these interrogatories. (Id.)

5 The undersigned did not order defendants to provide plaintiff with documents in response
6 to interrogatories nos. 2 and 4. On February 3, 2022, defendants filed an opposition to the
7 pending motion demonstrating that they provided plaintiff with further responses to
8 interrogatories nos. 2 and 4.¹ (ECF No. 41.) Because defendants complied with the December 7,
9 2021 order, plaintiff's motion for sanctions is denied.

10 In the December 7, 2021 order, the undersigned also granted plaintiff's request to extend
11 the discovery deadline. (ECF No. 37.) The undersigned ordered that the parties may serve further
12 discovery requests until January 11, 2022. (Id.) In the pending motion for sanctions, plaintiff
13 alleges that on December 19, 2021, he served defendants with a second set of interrogatories and
14 a request for production of documents. (Id.) Plaintiff argues that defendants failed to respond to
15 these requests. (Id.)

16 Plaintiff signed his motion for sanctions on January 9, 2022. (Id.) Therefore, the time for
17 defendants to respond to the discovery requests served on December 19, 2021, had not yet run
18 when plaintiff filed the motion for sanctions. Accordingly, plaintiff's request for sanctions based
19 on defendants' failure to respond to the discovery requests served on December 19, 2021, is
20 denied as premature.

21 Plaintiff's Second Motion for Extension of Time to Conduct Discovery

22 Plaintiff requests that the discovery deadline be extended for eight months. (ECF No. 39.)
23 For the reasons stated herein, plaintiff's motion is denied.

24 Courts have "broad discretion" to modify discovery deadlines upon a showing of good
25 cause. Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 607 (9th Cir. 1992); Fed. R. Civ. P.
26 16(b)(4). The good cause standard "primarily considers the diligence of the party seeking the

27 ¹ Defendant Kuersten's further responses to interrogatories nos. 2 and 4 appear adequate to the
28 undersigned. (ECF No. 41-2 at 3-4.)

1 amendment.” Mammoth Recreations, 975 F.2d at 609.

2 The original discovery deadline was January 28, 2022. (ECF No. 28 at 5.) All requests
3 for discovery pursuant to Federal Rule of Civil Procedure 31, 33, 34 and 36 were to be served not
4 later than sixty days prior to that date, i.e., on or before November 29, 2021. (Id.)

5 In his first motion to extend the discovery deadline, plaintiff requested that the discovery
6 deadline be extended for one year, i.e., until January 28, 2023. (ECF No. 32.) In the December
7 7, 2021 order, the undersigned did not find good cause to extend the discovery deadline for one
8 year. (ECF No. 37.) Instead, the undersigned granted the parties until January 11, 2022, to serve
9 further discovery requests. (Id.) Responses to further discovery requests were due no later than
10 February 11, 2022. (Id.) Motion to compel regarding further discovery requests were to be filed
11 no later than March 11, 2022. (Id.)

12 In the pending second request to extend the discovery deadline, plaintiff requests that the
13 discovery deadline be extended eight months. (ECF No. 39.) The grounds of this request are
14 defendants’ burdensome and meritless discovery requests served on plaintiff. (Id.) Plaintiff also
15 alleges that he is awaiting responses to his discovery requests served on defendants on December
16 19, 2021. (Id.) Plaintiff alleges that he requires additional time to serve follow-up discovery
17 requests. (Id.)

18 The undersigned finds that plaintiff has not shown good cause to extend the discovery
19 deadline a second time. Plaintiff served defendants with a second round of discovery requests
20 following the December 7, 2021 order extending the discovery deadline, i.e., the discovery
21 requests served December 19, 2021. Plaintiff’s speculation that he may have to serve follow-up
22 discovery requests, i.e., a third round of discovery requests, is not good cause to extend the
23 discovery deadline again. The undersigned also finds that defendants’ further discovery requests
24 served on plaintiff are not good cause to grant plaintiff additional time to serve additional
25 discovery requests.

26 ///

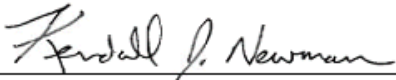
27 ///

28 ///

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motion for sanctions (ECF No. 40) is denied;
2. Plaintiff's second motion for an extension of time to conduct discovery (ECF No. 39) is denied.

Dated: March 1, 2022


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

Priest58.ord